

**Expedite FOIA Compliance with Adverse Inferences for Delays:** Require SBA, USDA, and the Department of the Interior to fulfill all outstanding FOIA requests. Draw adverse inferences against the agencies should further delays occur, assuming the withheld information supports non-compliance claims.

**Require Periodic Compliance Reporting:** Order SBA, USDA, and Treasury to submit monthly or quarterly compliance reports detailing:

**Adherence to the Court's ruling and FAR requirements.** Lists of contracts awarded to Alaskan Native Corporations (ANC), National Hawaiian Organizations (NHO), and Community Development Corporations (CDC) backed firms, and other entities exempt from social disadvantage narratives. The 298 companies awarded in 2023 backed by Small Business Investment Companies.

**Efforts to address any identified non-compliance issues.**

**Application of Strict Scrutiny to All 8(a) Participants:** Given SBA's selective enforcement, strict scrutiny is required for all 8(a) participants to ensure fair treatment aligned with constitutional principles.

#### **Conclusion**

To reiterate your Honor, **USDA and SBA's Non-Compliance with the Court's Ruling** which violates the **Equal Protection Clause**. On August 29, 2023, the SBA's Notice of Compliance claimed adherence to the injunction by ceasing to use the presumption of social disadvantage for individual applicants. However, it also stated that ANC-backed firms, CDCs, and NHOs would only continue participating in the 8(a) program if they met the social disadvantage narrative requirements, to date, no Social Narratives provided. This **selective compliance** directly contradicts the **intent and spirit of the Court's ruling**.

**Failure to Provide Social Disadvantage Narratives:** LUSA Associates, USDA, and the SBA have failed to update the courts, enforce the requirement for **social disadvantage narratives**, any changes with new contracting opportunities, novation agreements from Ultima to LUSA Associates. Thereby allowing certain entities to benefit from contracts without the same level of scrutiny which continues to exclude Black-owned Businesses. This practice is at odds with **FAR requirements** and **41 U.S.C. § 6305**, which emphasize transparency and fairness in the awarding of federal contracts.

**Implications of SBIC and ANC Relationships:** The Treasury's deviation also ties into the **3:1 profit leverage structure** under the **Small Business Investment Company (SBIC) program**. As trustees, the SBA facilitates a system where ANC-backed firms, supported by **significant federal capital through SBIC leverage**, can outcompete other disadvantaged businesses without proving their compliance. This arrangement raises concerns about the **integrity of the federal contracting process**, as it enables certain entities to leverage federal advantages without equivalent compliance obligations.

**Failure to Fulfill FOIA Requests:** The **USDA and Department of the Interior's** failure to fulfill **Freedom of Information Act (FOIA)**, SBA failed to fulfill the entire FOIA request as the burden of proof will fall on DALS Credit Solutions Co which have already experienced and continue to experience a drastic loss of revenue due to non-compliance of ruling. Requests further obstruct transparency. The refusal to provide records prevents a full assessment of the extent of non-compliance and selectively applied standards. Such a lack of transparency directly contradicts the principles of **accountability** and **open government** that FOIA is intended to protect.

The SBA's ongoing systemic failure to comply with federal procurement laws, **41 U.S.C. § 6305**, and constitutional mandates fundamentally undermines the federal contracting system and excludes Black-

owned businesses from participating equitably. In *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 U.S. 701, 78 (2007), the Court emphasized that ending race-based discrimination requires the cessation of discriminatory practices.

I respectfully request the Court grant this motion for full intervention, issue an immediate injunction, mandate a comprehensive compliance audit, enforce FOIA requirements, and apply strict scrutiny to all 8(a) participants. These actions are crucial to restoring fairness, integrity, and accountability within federal contracting.

Respectfully, your Honor

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